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JUN 15 2009

**OFFICE OF PETITIONS**

In re Application of	:
Keith G. Lurie et al.	:
Application No. 10/796,875	:
Filed: March 8, 2004	:
Attorney Docket Number: 016354-005213US	:
Title: VENTILATOR AND METHODS FOR TREATING HEAD TRAUMA AND LOW BLOOD CIRCULATION	:

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.137(b), filed on October 1, 2008, to revive the above-identified application.

This renewed petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR § 1.113 in a timely manner to the final Office action mailed April 21, 2006, which set a shortened statutory period for reply of three months. An after-final amendment was received on June 21, 2006, and an advisory action was mailed on October 11, 2006. A second after-final response (two terminal disclaimers) was submitted on October 19, 2006, along with a three-month extension of time, and a second advisory action was mailed on June 14, 2007. No further responses were received, and no additional extensions of time under the provisions of 37 CFR § 1.136(a) were available. Accordingly, the above-identified application became abandoned on

October 22, 2006. A notice of abandonment was mailed on August 6, 2007.

A petition pursuant to 37 C.F.R. § 1.137(a) was filed on September 10, 2007, and was dismissed in a decision mailed on October 31, 2007.

An original petition pursuant to 37 C.F.R. § 1.137(b) was filed on November 12, 2007, and was dismissed in a decision mailed on September 15, 2008.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

The petition fee was received on November 12, 2007.

With this renewed petition, Petitioner submitted the proper statement of unintentional delay. Petitioner further submitted a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114, including a request for consideration of a concurrently submitted amendment and a terminal disclaimer, and payment of the RCE fee. The RCE has been accepted as the required reply under 37 C.F.R. § 1.137(b) (1).

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.<sup>1</sup>

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 -

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<sup>1</sup> See Rule 1.137(d).

the amendment and the terminal disclaimer that were concurrently submitted on October 1, 2008 - can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.<sup>2</sup> All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



Paul Shanoski  
Senior Attorney  
Office of Petitions

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<sup>2</sup> Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).